

MINUTES

Committee Meeting October 17, 2003

Committee Members Present: John Westmoreland, President; James McCrae, Vice President; Gordon Bisel; Kenneth Earl; Jerome Kosoy, M.D.; and Michael Shobe.

Committee Members Absent: Susan Hargrave; Cherri Ann Robbins; and Eve-Anne Wall

Staff Present: Pam Kaderka; Jim Zukowski; Debbie Peterson; Marc Connelly, Committee Attorney; Mireya Uribe-Warren; Eileen Hartman; and Sallie Howard.

Others Present: Kenneth Haesly; Chris Czop; Pamela Smith; Kelly Kelley; Paul Jay; and Scott Pospisil.

John Westmoreland called the meeting to order at 2:00 p.m. at the Embassy Suites Arboretum, Austin, Texas. Committee members and guests introduced themselves.

There was no public comment. These will be made as the committee takes up items.

Minor housekeeping corrections need to be made. James McCrae moved and Michael Shobe seconded that the minutes of the June 6, 2003, meeting be approved as corrected. Motion carried.

John Westmoreland asked, Gordon Bisel, chair of the complaints subcommittee to give a report. Mr. Bisel reported complaints FD-02-038, FD-02-063, FD-02-081, FD-02-084, FD-02-085, FD-02-086, FD-03-002, FD-03-003, FD-03-007, FD-03-011, FD-03-013, FD-03-017, FD-03-020, FD-03-021, FD-03-022, FD-03-025, FD-03-029, FD-03-030, FD-03-031, FD-03-032, FD-03-037, FD-03-040, FD-03-043, FD-03-044; FD-03-046, and FD-03-047 remain open. Complaints 97-0027, 00-0044, 00-0054, FD-02-020, FD-02-047, FD-02-069, FD-02-070, FD-03-014, and FD-03-023 have been referred to the office of the Attorney General and will be closed non-jurisdictional. Complaints FD-02-046, FD-02-050, FD-02-053, FD-02-054, FD-02-055, FD-02-061, FD-02-062, FD-02-066, FD-02-067, FD-02-068, FD-02-072, FD-02-074, FD-02-083, FD-03-005, FD-03-008, FD-03-012, FD-03-016, FD-03-018, FD-03-024, FD-03-028, FD-03-035, FD-03-036, FD-03-039, FD-03-042, and FD-03-045, were closed. Final informal conferences will be set up for Charles Wooster, John Thom and Lawrence Cox. Mr. Bisel moved and Jerome Kosoy seconded that the complaints subcommittee report be accepted. The motion carried.

John Westmoreland asked James McCrae, chair of the applications subcommittee to give a report. Mr. McCrae stated that the subcommittee recommended the following:

Approve the application of Neva Koehn pending full explanation, in writing, regarding the criminal history check.

No action taken on Dan Gleason and Michael Register.

The subcommittee needs more information from Richard Manuel and recommends that he fill out a new application. The one he used is not current.

Approval of the application of David Branan for a temporary training permit.

Mr. McCrae moved and Jerome Kosoy seconded that the applications subcommittee report be accepted. The motion carried.

John Westmoreland asked Jerome Kosoy, chair of the continuing education subcommittee to give a report. Dr. Kosoy reported that the Texas Hearing Aid Association is forming a continuing education ad-hoc committee. The subcommittee recommends that Cherri Robbins and Kenneth Earl serve as liaisons to this ad-hoc committee. Mr. Earl reported that his and Ms. Robbins research on the approval of internet continuing education courses shows that the program from Hearing Health International is very "primitive" in scope and is not viable for use at this time. Involutions, Inc and the Oklahoma Hearing Aid Association were approved as non-manufacturer sponsors. Rexton, Inc. was approved as a manufacture sponsor. Dr. Kosoy moved and Gordon Bisel seconded that the continuing education subcommittee report be accepted. The motion carried.

John Westmoreland asked James McCrae, chair of the rules subcommittee to give a report. Mr. McCrae reported that the next step in the chain of liability for recovery of non-paid administrative penalties after the licensee would be the business owner. He also indicated that the use of the word "audiology" in a business name is not against the Fitting and Dispensing of Hearing Instruments Act or rules; however, it would be prudent if the business did have an audiologist on staff. Mr. McCrae reported that Mr. Connelly's investigation into Chapter 102.001 regarding solicitation of patients shows that the committee probably does have the authority to use this and that is illegal to pay persons to bring in patients with promise of money or goods and services. Mr. McCrae indicated that the proposed rules would be brought to the Texas Board of Health, in January 2004, for approval and printing in the Texas Register for public comment. The only changes to the rules as originally proposed included the removal of the definition for "manufacturer"; raising the continuing education fee \$500.00 to \$600.00 and wording to Section 141.10 Reciprocity to include allowing applicants for reciprocity who are currently licensed and have held a license to fit and dispense hearing instruments in another state for two years or more and who are currently certified by the National Board for Certification in Hearing Instrument Sciences (NBC-HIS) to take the examination and be approved for an apprentice permit. Mr. McCrae moved and Kenneth Earl seconded that the rules subcommittee report be accepted. The motion carried.

The examination subcommittee did not meet; therefore there is no report.

John Westmoreland asked Dr. Jim Zukowski, Division Director of Professional Licensing and Certification to give a report. Dr. Zukowski had Debbie Peterson reported on the budget. Dr. Zukowski reported on reorganization of the Professional Licensing Division as impacted by House Bill 2292 and the Sunset process. Mr. Westmoreland thanked Dr. Zukowski for his report.

John Westmoreland gave the President's report. He thanked members of the committee and staff for all their hard work and said that his last six years on the committee were great. He announced that he would be retiring from the committee on December 31, 2003, and that he had tendered his resignation

to the Governor's office. Mr. Westmoreland indicated that he felt the greatest accomplishments during his time on the committee were changes to the handling of complaints, the sanction guide, improvements to the fitting and dispensing examination, and the addition of Marc Connelly as committee attorney.

John Westmoreland asked Pam Kaderka, Executive Director to give her report. Ms. Kaderka thanked committee members for their patience and cooperation.

John Westmoreland called for the election of officers. He nominated James McCrae for President and Gordon Bisel seconded. Mr. McCrae was elected by acclamation. James McCrae nominated Gordon Bisel for Vice-President and Kenneth Earl seconded. Mr. Bisel was also elected by acclamation.

The committee set the meeting and examination schedule for 2004 as follows:

February 19-21

June 17-19

October 7-9

Marc Connelly indicated that he would check with the Governor's office regarding replacements for committee membership and that a quorum was based on sitting members.

There being no further business, James McCrae moved and Gordon Bisel seconded that the committee be adjourned at 2:55 p.m. Motion passed.

James McCrae, President

Date